

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Re Application
Inventor(s): James F. Zucherman, et al.
Appl. No.: 09/842,819
Confirm. No.: 2799
Filed: April 26, 2001
Title: SUPPLEMENTAL SPINE FIXATION
DEVICE AND METHOD

PATENT APPLICATION

Art Unit: 3743
Examiner: Andrea M. Ragonese

Customer No. 23910

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8

I hereby certify that this correspondence is being deposited in the United States Postal Service with sufficient postage as first class mail in an envelope addressed to **Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450**, on March 29, 2005.

(Attorney Signature)

Melissa L. Basch, Reg. No. 56,159
Signature Date: March 29, 2005

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT UNDER 37 C.F.R. §1.56

Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is requested that the information identified in this statement be considered by the Examiner and made of record in the above-identified application. This statement is not intended to represent that a search has been made or that the information cited in the statement is, or is considered to be, material to patentability as defined in 37 C.F.R. §1.56. If this is a continuation, divisional or continuation-in-part application, it is understood that the Examiner will consider all information which was considered by the Office in a parent application. MPEP §609. Such information therefore is not listed herein unless it is desired that the information be printed on a patent issuing from the subject application.

Enclosed with this statement are the following:

- Form PTO-1449. The Examiner is requested to initial the form and return it to the undersigned in accordance with M.P.E.P. §609.
- The present application is being/was filed after June 30, 2003. In accordance with the pre-official gazette waiver of 37 CFR 1.98 (a)(2)(i) posted at: pac/dapp/opla/preognnotice/idswouscopies.htm,

copies of cited U.S. patents and publications are not enclosed. However, copies of cited foreign patent documents and non-patent literature are enclosed in accordance with 37 CFR 1.98(a)(2), as still required, except for those items designated by an asterisk (*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

✓ The present application was filed prior to June 30, 2003. A copy of each cited document as required by 37 C.F.R. §1.98 is enclosed, except for those items designated by an asterisk (*), which were previously submitted by the applicant in a parent application, from which benefit under 35 U.S.C. §120 is claimed, with an *Information Disclosure Statement* submitted in the parent application which complies with the September 8, 2000 or subsequent revision of 37 C.F.R. §1.98(a-c), as allowed under 37 C.F.R. §1.98(d)(1).

✓ If any of the cited/submitted documents is in a foreign language, a concise explanation of relevance is provided pursuant to 37 C.F.R. §1.98(a)(3)(i). For foreign language documents cited in a search report by a foreign patent office, the requirement for a concise explanation of relevance is satisfied by the submission herewith of an English language version of the search report. MPEP §609A(3). If a written English-language translation of a non-English language document, or portion thereof, is within the possession, custody or control of, or is readily available to any individual designated in §1.56(c), a copy of the translation accompanies this statement, 37 C.F.R. §1.98(a)(3)(ii), and satisfies the requirement for a concise explanation of relevance, MPEP §609A(3).

— **PTA Statement under 37 C.F.R. §1.704(d).** Each item of information contained in the *Information Disclosure Statement* was cited in a communication from a foreign patent office in a counterpart application and this communication was not received by any individual designated in §1.56(c) more than thirty days prior to the filing of the *Information Disclosure Statement*.

This statement should be considered because:

✓ **37 C.F.R. §1.97(b).** This statement qualifies under 37 C.F.R. §1.97, subsection (b) because:

- (1) It is being filed within three months of the filing date of an application other than a continued prosecution application under § 1.53(d);
-- OR --
- (2) It is being filed within 3 months of entry of a national stage;
-- OR --
- (3) It is being filed before the mailing date of the first Office Action on the merits,
-- OR --
- (4) It is being filed before the mailing date of the first Office Action after the filing of a Request for Continued Examination under 37 C.F.R. §1.114.

— **37 C.F.R. §1.97(c).** Although it may not qualify under subsection (b), this statement qualifies under 37 C.F.R. §1.97, subsection (c) because:

(1) It is being filed before the mailing date of a FINAL Office Action, a Notice of Allowance, or an action that otherwise closes prosecution in the subject application, whichever occurs first.

-- AND (*check at least one of the following*) --

— (1) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e).
 -- OR --

— (2) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

— **37 C.F.R. §1.97(d).** Although it may not qualify under subsection (b) or (c), this statement qualifies under 37 C.F.R. §1.97, subsection (d) because:

(1) It is being filed on or before payment of the Issue Fee;
 -- AND --

(2) It is accompanied by a STATEMENT as set forth in 37 C.F.R. §1.97(e);
 -- AND --

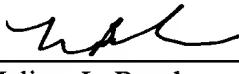
(3) It is accompanied by the \$180 fee set forth in 37 C.F.R. §1.17(p).

✓ **Fee Authorization.** The Commissioner is hereby authorized to charge any deficiencies or credit any overpayment to Deposit Account No. 06-1325. A duplicate copy of this authorization is enclosed.

Respectfully submitted,

FLIESLER MEYER LLP

Date: 3-28-05

By: 
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Form PTO-1449 (Substitute) 	U.S. DEPARTMENT OF COMMERCE PATENT AND TRADEMARK OFFICE <i>Information Disclosure Statement</i> BY APPLICANT <i>(Use several sheets if necessary)</i>		Attorney Docket Number KLYC-01033US4	Serial/Patent Number 09/842,819
			Applicant/Patent Owner James F. Zucherman, et al.	
			Filing/Issue Date April 26, 2001	Group Art Unit 3743

U.S. PATENTS

Examiner Initial		Patent Number	Issue Date	First Named Inventor	Class	Subclass	Filing Date
	1.	5,454,812	10/03/1995	Lin	606	61	11/14/1994
	2.	5,527,312 A	06/18/1996	Ray	606	61	08/19/1994
	3.	5,554,191	09/10/1996	Lahille	623	17	01/23/1995
	4.	6,048,342 A	04/11/2000	Zucherman	606	61	10/27/1998
	5.	6,068,630 A	05/30/2000	Zucherman	606	61	10/20/1998
	6.	6,190,414 B1	02/20/2001	Young	623	17.15	10/31/1996
	7.	6,638,351 B1	04/09/2002	Glenn	623	17.15	03/27/2001
	8.	6,458,131 B1	10/01/2002	Ray	606	61	08/07/2000
	9.	6,582,437 B2	06/24/2003	Dorchak	606	90	02/22/2001
	10.	6,755,841 B2	06/29/2004	Fraser	606	99	12/07/2001

U.S. PATENT PUBLICATIONS

Examiner Initial		Patent Application Publication Number	Publication Date	Applicant
	11.	2001/0012938 A1	08/09/2001	Zucherman, et al.

PENDING U.S. PATENT APPLICATIONS

Examiner Initial		Application Number	Filing Date	First Named Inventor	Petition to Expunge? Yes No

FOREIGN PATENT DOCUMENTS

Examiner Initial		Document Number	Publication Date	Country	Class	Subclass	Trans-lation Yes No
	12.	GB 780,652 A	08/07/1957	GB			✓

FOREIGN PATENT DOCUMENTS							
Examiner		Document Number	Publication Date	Country	Class	Subclass	Trans- lation Yes No
Initial JC10 O I P MAR 30 2005 PATENT & TRADEMARK OFFICE	13.	FR 2 705 227 A	11/25/1994	France			✓
	14.	FR 2 722 088 A	01/12/1996	France			✓
	15.	FR 2 724 554 A	03/22/1996	France			✓
OTHER DOCUMENTS (Include author (if any), title, publisher and place of publication, date and pertinent pages)							
	16.	International Search Report mailed November 5, 2004 for International Application No. PCT/US03/33778.					
	17.	International Search Report mailed November 15, 2004 for International Application No. PCT/US03/33799.					
	18.	International Search Report mailed November 18, 2004 for International Application No. PCT/US03/34061.					
	19.	International Search Report mailed January 25, 2005 for International Application No. PCT/US03/33884.					
Examiner			Date Considered				
*EXAMINER: Initial if citation considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.							
*1 = Copy not submitted because it was submitted in prior application SN /_____, filed _____, 20_____, relied on under 35 USC §120.							
*2 = Copy not submitted because it was submitted in prior application SN /_____, filed _____, 20_____, relied on under 35 USC §120.							